

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:22-cv-00187

Aaron Evans,
Plaintiff,

v.

Bobby Lumpkin et al.,
Defendants.


ORDER

Plaintiff Aaron Evans, proceeding pro se and *in forma pauperis*, filed the above-styled civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge John D. Love. Thereafter, defendants John Ellis, Geneva Robinson, and Henry Sargent filed a partial motion for summary judgment on plaintiff's claims (1) against defendant Ellis for excessive force in using chemical agents, (2) against defendants Ellis, Robinson, and Sargent for medical deliberate indifference following the alleged use of force, and (3) against defendants Ellis, Robinson, and Sargent for deprivation of food and water. Doc. 37. The partial motion for summary judgment expressly excluded plaintiff's excessive force claims against defendants Ellis and Sargent for spraying plaintiff with the water hose. *Id.* at 2. On December 13, 2023, Judge Love issued a report and recommendation (Doc. 41), recommending that the motion be granted as to the claims for medical deliberate indifference and deprivation of food and water, and that those claims be dismissed with prejudice. Judge Love further recommended that the motion be denied as to the excessive force claim against defendant Ellis for using chemical agents. To date, no objections have been filed, and the time period for doing so has passed.

When no party objects to the magistrate judge's report and recommendation, the court reviews it only for clear error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996). Having reviewed the magistrate judge's report, and being satisfied that it

contains no clear error, the court accepts its findings and recommendation. Doc. 41. For the reasons stated in the report, defendants' partial motion for summary judgment (Doc. 37) is granted as to the claims for medical deliberate indifference and deprivation of food and water and is denied as to the claim for excessive force against defendant Ellis for using chemical agents. Plaintiff's claims for medical deliberate indifference and deprivation of food and water are dismissed with prejudice. Plaintiff's excessive force claims against defendant Ellis for using chemical agents and against defendants Ellis and Sargent for spraying plaintiff with the water hose remain before the court on referral to the magistrate judge. The clerk is directed to terminate all other defendants from the docket.

So ordered by the court on February 7, 2024.



J. CAMPBELL BARKER
United States District Judge